

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.75.101, 37.75.109,)
37.75.202, 37.75.205, 37.75.206, and)
37.75.209 pertaining to the Child and)
Adult Care Food Program (CACFP))

TO: All Concerned Persons

1. On November 26, 2008 the Department of Public Health and Human Services published MAR Notice No. 37-461 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2446 of the 2008 Montana Administrative Register, Issue Number 22.

2. The department has amended the above-stated rules as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: In ARM 37.75.209 there is concern about changing the notification of intent to switch sponsors to the last day of the month prior to the switch from the fifth day. The reason for the fifth day was to give sponsors some planning time. As many as three providers can switch in a month, so if three did and the sponsors did not know until the last day, the sponsors could monitor them that month when really that would not be necessary. If providers told sponsors the providers were switching then sponsors would not monitor them. Why incur the expense. Sponsors will need a sign up visit, a 30-day visit with the new provider. Some sponsor regions are huge so this could be a huge expense for those sponsors. Without having the longer notice could add undo expenses for sponsors.

RESPONSE #1: In July 2007, the USDA Food and Nutrition Service Mountain Plains Region (the "USDA") conducted its Fiscal Year 2007 Child and Adult Care Food Program ("CACFP") Focused Management Evaluation of the Montana CACFP. At that time, the USDA noted that the Montana CACFP policy on providers changing sponsors "appears to cause undue hardship on the provider". The USDA stated, "Providers should be given options of continuing with their current sponsor...or to terminate their agreement with their current sponsor prior to the fifth of the month, which might result in a break in reimbursement." The change is made in order to remove the perceived undue hardship for providers described by the USDA.

In its evaluation, the USDA also advised CACFP that the policy language limiting to three the number of homes which could change from one sponsor to another in any

given month "sets an arbitrary limit on the number of providers who may transfer in a given month (and) may restrict access to the program". That language was never part of the rule, but was part of the policy, and the department is removing it in response to the comments of the USDA. The focus of the change is to promote provider choice of a sponsoring organization to participate in the program.

/s/ Francis X. Clinch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 20, 2009.